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22 **UNITED STATES DISTRICT COURT**

23 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

24 TY RAYNER, on Behalf of Himself and All
25 Others Similarly Situated,

CASE No.: 15-cv-01384-RMW

26 Plaintiff,

**STIPULATION AND
[] ORDER
TO STAY ACTION**

27 vs.

28 E*TRADE FINANCIAL CORPORATION
and E*TRADE SECURITIES LLC,

CLASS ACTION

Defendant.

29 Plaintiff Ty Rayner, on behalf of himself and others similarly situated (“Plaintiff”) and
30 Defendants E*TRADE Financial Corporation and E*TRADE Securities LLC (“Defendants,”)
31 together with Plaintiff, “the Parties”), by and through their counsel, enter into the following
32 stipulation to stay this action:

33 WHEREAS, Plaintiff filed his Complaint on March 25, 2015; and

34 WHEREAS, the following cases (which were brought by different plaintiffs against
35 different defendants than the Parties) contain allegations with respect to payment for order flow:
36 *Zola v. TD Ameritrade, Inc., D. Neb., 8:14-cv-288; Verdieck v. TD Ameritrade, Inc., D. Neb.,*

1 8:14-cv-289; *Lerner v. TD Ameritrade, Inc.*, D. Neb., 8:14-cv-325; *Sarbacker v. TD Ameritrade*
2 *Holding Corporation*; D. Neb., 8:14-cv-341; *Lewis v. Scottrade, Inc.*, S.D. Cal. 3:14-cv-02926
3 (collectively, the “PFOF Actions”); and

4 WHEREAS, motions to dismiss are pending in each of the PFOF Actions; and

5 WHEREAS, neither Party will be prejudiced by a stay pending resolution of the motions to
6 dismiss in the PFOF Actions:

7 IT IS HEREBY STIPULATED that this action shall be stayed until decisions on the
8 motions to dismiss are entered in each of the PFOF Actions. Defendants need not answer or
9 otherwise respond to the Complaint during the pendency of the motions to dismiss in the PFOF
10 Actions. Defendants will have 20 days to answer or otherwise respond to Plaintiff’s Complaint
11 following the issuance of decisions on the motions to dismiss in the PFOF Actions. The Parties
12 shall jointly advise the Court of the issuance of decisions on the motions to dismiss in the PFOF
13 Actions within 5 days of the written decisions.

14 In light of the foregoing, the parties respectfully request that the Case Management
15 Conference currently set for July 14, 2015, be vacated until the stay is lifted.

16 DATED: April 16, 2015

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21

[Proposed] Order

22 Pursuant to the foregoing stipulation between the parties, **IT IS SO ORDERED.**
23

Dated: 10/01/2015

24 
Ronald M. Whyte
United States District Judge
25
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27
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